

**Notice of Allowability**

Application No.

09/990,762

Examiner

Mark L. Shibuya

Applicant(s)

JOUNG ET AL.

Art Unit

1639

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/15/2005.
2. ☒ The allowed claim(s) is/are 1-7 and 9.
3. ☒ The drawings filed on 2/4/2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**PADMASHRI PONNALURI**  
**PRIMARY EXAMINER**

Mark L. Shibuya  
Examiner  
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### REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The pending claims, amended 4/15/2005, are free of the prior art. The closest prior art of record is that of Menzel et al., Publication No. US 2003/0003449, previously made of record. Menzel et al. teach the selection of a chimeric gene construct, comprising a dimerizing yeast leucine zipper domain and an AraC gene fragment having activation and DNA-binding domains intermixed together, where lack of dimerization does not support activation of a separate reporter gene construct. However, Menzel does not teach or fairly suggest activation domains that are heterologous to the DNA-binding domain or chimeric genes comprising zinc-finger DNA-binding domains, and wherein chimeric gene libraries are selected for dimerizing polypeptides, as in the amended claims (see, also the Reply to the previous Office action, entered 4/15/2005).

The instant claims further are distinguished from interaction trap systems (see, for example, Ma, J. and Ptashe, M., Converting a Eukaryotic Transcriptional Inhibitor into an Activator, Cell, vol. 55, pages 443-446, November 4, 1988, IDS filed 2/6/2004, ref. designation AS-1) where a fusion protein comprising a transcriptional activation domain and a separate fusion protein comprising DNA-binding domain are brought into operational contact through the binding of two proteins, one of which is fused to said activation domain, the other protein being fused to said DNA-binding domain. In the instant claims, both the activation domain and the DNA-binding domain are found on the same fusion protein. "[D]imerization of two copies of the fusion protein to each other

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and binding of the dimerized fusion protein to the transcriptional regulatory sequence of the reporter gene results in a desired level of expression of the reporter gene", however "binding of a single copy of the fusion protein to the transcriptional regulatory sequence of the reporter gene does not result in a desired level of expression of the reporter gene", (see claim 1 of the instant invention, lines 9-13).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."